

Remarks

This Application has been carefully reviewed in light of the Office Action mailed February 27, 2006. Claims 1, 3-19, 21-26, 28-41, 43, 45-46, and 49-50 have been amended. Applicants respectfully request reconsideration and allowance of all pending claims.

I. The Claims are Allowable Over the Proposed *Barroux-Cotichini* Combination

The Examiner maintains the rejection of Claims 1-7, 12, 13, 17, 24-27, 29, 31, 40 and 44-50 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,182,110 B1 issued to Barroux ("*Barroux*") in view of U.S. Patent No. 6,300,863 B1 issued to Cotichini, et al. ("*Cotichini*").

A. Independent Claims 1, 46, and 49

Independent Claim 1, as amended, recites:

A job scheduling device for scheduling jobs to run on at least two nodes of at least one computing platform, comprising:

an enterprise scheduling agent installed on each of the at least two nodes and configured to launch execution of jobs submitted to the enterprise scheduling agent;

a presentation system configured to accept and validate parameters identifying at least one job to be submitted for execution on at least one of the nodes; and

a job scheduler configured to allocate at least one job based on the parameters to at least one enterprise scheduling agent and to submit the allocated jobs to the at least one enterprise scheduling agent;

wherein the job scheduler is communicatively coupled to the at least two nodes by a network.

Independent Claims 46 and 49, as amended, recite substantially similar limitations. Applicants respectfully submit that the proposed *Barroux-Cotichini* combination fails to disclose, teach, or suggest elements specifically recited in independent Claims 1, 46, and 49, as amended.

With respect to independent Claims 1, 46, and 49, the Office Action mailed February 27, 2006 is substantially identical to the Office Action mailed August 11, 2005. However, in the Response mailed January 9, 2006, Applicants clearly demonstrated the allowability of Claims 1, 46, and 49 over the proposed *Barroux-Cotichini* combination. Applicants therefore

reiterate their remarks in the Response mailed January 9, 2006. Below Applicants provide additional remarks specifically addressing comments made by the Examiner in the "Response to Arguments" section of the Office Action mailed February 27, 2006.

Enterprise Scheduling Agent Installed on Each of the at Least Two Nodes

In the "Response to Arguments" section of the Office Action mailed February 27, 2006, the Examiner states:

In the Remarks, Applicant argues in substance that Barroux and Cotichini combination fail to disclose, teach, or suggest at least "an enterprise scheduling agent installed on each node and configured to launch execution of jobs submitted to the enterprise scheduling agent," as recited in independent Claim 1. More so, that the "integrated resource" is separate and distinct from nodes 218 and is therefore not the same as "an enterprise scheduling agent installed on each node and configured to launch execution of jobs submitted to the enterprise scheduling agent" or "installed on a node."

As to part 1, Examiner would like to draw the Applicant's attention to the prior art of Barroux in which it is clear that an agent is stored on a node as can be seen on the "Typical Host" 220. Typical Host 220 has installed on it a RPC SSW agent, RPC HW agent and a PRC AT agent.

(Office Action, Page 25).

First, Applicants point out that the Examiner is taking two contradictory positions in the same Office Action. On Page 3, the Examiner states that *Barroux* "does not specifically teach an agent installed on each node." Then on Page 25, the Examiner states with respect to *Barroux* that "it is clear that an agent is stored on a node." Unless the Examiner is making the distinction between "a node" and "each node," these statements are contradictory. To the extent that the Examiner is arguing that *Barroux* discloses an enterprise scheduling agent installed on "a node," but does not disclose an enterprise scheduling agent installed on "each node," Applicants respectfully submit that the Examiner is effectively acknowledging that *Barroux* fails to disclose "***an enterprise scheduling agent installed on each of the at least two nodes***," as recited in Claim 1, as amended.

Second, even if *Barroux* does disclose an agent installed on each node, Applicants point out that in both the August 11, 2005, Office Action, and the February 27, 2006, Office Action, the Examiner has identified the "integrated resource" disclosed in *Barroux* as

allegedly disclosing the “enterprise scheduling agent,” recited in Claim 1. (See August 11, 2005 Office Action, Page 3, Paragraph 6; and February 27, 2006, Office Action, Page 2, Paragraph 5). However, Applicants submit that, because the “integrated resource” in *Barroux* is separate and distinct from the nodes, the “integrated resource” in *Barroux* cannot be construed as “*an enterprise scheduling agent installed on each of the at least two nodes and configured to launch execution of jobs submitted to the enterprise scheduling agent,*” as recited in Claim 1, as amended.

Third, to the extent that the Examiner is now alleging that the agents installed on typical host 220 in *Barroux* can be properly construed as the “enterprise scheduling agent installed on each of the at least two nodes,” Applicants respectfully disagree. *Barroux* fails to disclose, expressly or inherently, that any “jobs” are submitted to the agents installed on typical host 220. Accordingly, none of the agents installed on typical host 220 can be properly construed as an enterprise scheduling agents “*configured to launch execution of jobs submitted to the enterprise scheduling agent,*” as recited in Claim 1.

Fourth, the Examiner states:

Applicant is reminded that when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. Skill of the art is presumed. Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

(Office Action, Pages 25-26, *citations omitted*). Applicants respectfully submit that these statements are not helpful to a determination of the Examiner’s basis for the rejection. These statements do not indicate what the Examiner is asserting could be reasonably inferred from the cited references or what one of skill in the art should be presumed to know. To the extent that the Examiner is taking Official Notice that one or more limitations of the claims would have been known to one of ordinary skill in the art at the time of the invention, Applicants respectfully traverse. “[G]eneral conclusions concerning what is ‘basic knowledge’ or ‘common sense’ to one of skill in the art without specific factual findings and some concrete

evidence in the record to support these findings will not support an obviousness rejection.” (M.P.E.P. § 2144.03 (B), citing *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001)). “The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made.” (M.P.E.P. § 2144.03 (B)). Applicants respectfully request the Examiner to provide details regarding what one of ordinary skill in the art would have known and provide evidentiary support for these assertions.

Independent Claim 1, as amended, is allowable for at least these reasons. Independent Claims 46 and 49 are allowable for at least substantially the same reasons as discussed above with respect to Claim 1. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1, 46, and 49.

Job Scheduler Configured to Allocate at Least One Job

In the “Response to Arguments” section of the Office Action mailed February 27, 2006, the Examiner states:

In the Remarks, Applicant argues in substance that the combination of Barroux and Cotichini fails to disclose the “job scheduler configured to allocate at least one job based on said parameters to at least one enterprise scheduling agent and to submit the allocated jobs to said at least one enterprise scheduling agent.”

As to part 2, Applicant states in the Remarks that the Examiner asserts that the integrated resource 200 in Barroux can be properly construed as the “enterprise scheduling agent,” but traverses the Examiner’s position. In particular, the Examiner has not identified any element or elements which could be construed as a “job scheduler,” as recited in independent Claim 1. If the Applicant were to look into the prior art of Barroux, one can see that there is the Integrated resource 200 and a Task scheduler 302, col. 4, line 65 et seq. Furthermore, it is stated in the prior art of Barroux that, “. . . task scheduler 302 schedules the selected task for the target nodes at step 404 with the specified repetition period.” All of which reads on the Claim language as stated in Applicant’s claimed invention.

(Office Action, Page 26).

First, it is unclear what the Examiner is relying on in the references as disclosing the “job scheduler,” recited in Claim 1. On Page 3, the Examiner cites to Column 1, Line 59 -

Column 2, Line 9 of *Barroux* as disclosing the “job scheduler. However, on Page 26, the Examiner lists both integrated resource 200 and task scheduler 302, cites to Column 4, Line 65 et seq. of *Barroux*, quotes Column 6, Lines 12-14 of *Barroux*, and then states that all of this “reads on the Claim language.” However, Column 1, Line 59 - Column 2, Line 9 of *Barroux* does not identify either integrated resource 200 or task scheduler 302. Nevertheless, because the quoted language at Column 6, Lines 12-14 specifically addresses task scheduler 302, Applicants will assume for the purposes of this Response that the Examiner intended to assert that task scheduler 302 can be properly construed as the “job scheduler,” as recited in Claim 1. If the Examiner intends to maintain this rejection, Applicants respectfully request the Examiner to clarify which element or elements the Examiner asserts can be construed as ***“a job scheduler configured to allocate at least one job based on the parameters to at least one enterprise scheduling agent and to submit the allocated jobs to the at least one enterprise scheduling agent,”*** as recited in Claim 1, as amended.

Second, to the extent that the Examiner is asserting that the agents installed on typical host 220 can be properly construed as “an enterprise scheduling agent,” Applicants respectfully submit that task scheduler 302 cannot be properly construed as the “job scheduler” recited in Claim 1. *Barroux* discloses that task scheduler 302 sends task messages to ProcLoad module 306 and then ProcLoad module 306 launches the task. (See Figure 3, Figure 5, and Column 6, Lines 55-59). Nowhere does *Barroux* disclose, teach, or suggest that task scheduler 302 submits a job, a task, or anything else to the agents installed on typical host 220. Thus, if these agents are construed as the “enterprise scheduling agents,” then task scheduler 302 cannot be properly construed as ***“a job scheduler configured to allocate at least one job based on the parameters to at least one enterprise scheduling agent and to submit the allocated jobs to the at least one enterprise scheduling agent,”*** as recited in Claim 1.

Third, to the extent that the Examiner is asserting that the integrated resource 200 (or any portion of integrated resource 200) can be properly construed as an “enterprise scheduling agent,” task scheduler 302 cannot be properly construed as the “job scheduler” recited in Claim 1. Task scheduler 302 is an internal component of integrated resource 200. (See Figures 2 and 3). Accordingly, if integrated resource 200 were construed as ***“an***

enterprise scheduling agent installed on each of the at least two nodes,” then the task scheduler 302 could not be properly construed as a job scheduler, “*wherein the job scheduler is communicatively coupled to the at least two nodes by a network,*” as recited in independent Claim 1, as amended.

Independent Claim 1, as amended, is allowable for at least these reasons. Independent Claims 46 and 49 are allowable for at least substantially the same reasons as discussed above with respect to Claim 1. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1, 46, and 49.

B. Independent Claims 25, 45, and 50

Independent Claim 25, as amended, recites:

A method of scheduling jobs across multiple networked computing platforms, comprising:
determining, at a first location, at least one job to be scheduled based on job parameters for the at least one job;
sending the at least one job to at least two enterprise scheduling agents, each maintained on selected nodes of the computer platforms; and
executing the at least one job on the selected nodes under management of the enterprise scheduling agents;
wherein the first location is communicatively coupled to the selected nodes by a network.

Independent Claims 45 and 50, as amended, recite substantially similar limitations. Applicants respectfully submit that the proposed *Barroux-Cotichini* combination fails to disclose, teach, or suggest elements specifically recited in independent Claims 25, 45, and 50, as amended.

Sending the at Least One Job to at Least Two Enterprise Scheduling Agents

As one example, *Barroux* fails to disclose, teach, or suggest at least “sending the at least one job to at least two enterprise scheduling agents, each maintained on selected nodes of the computer platforms,” as recited in independent Claim 25, as amended.

The Examiner cites to Column 5, lines 11-27 of *Barroux* as disclosing this limitation. (Office Action, Page 7) The portion cited by the Examiner discusses “special characteristics”

for each node, such as “peaks in network traffic,” and the complexities of “scheduling for a large network.” *Barroux* describes these “special characteristics” as being based on the daily or weekly traffic levels for particular nodes. (Column 5, lines 11-27) The Examiner has not identified, and the cited portions do not disclose, anything that can be construed as “at least one job” that is sent “to at least two enterprise scheduling agents.” Moreover, as discussed above, *Barroux* fails to disclose, teach, or suggest “at least two enterprise scheduling agents, each maintained on selected nodes.” Accordingly, the *Barroux-Cotichini* combination fails to disclose, teach, or suggest “*sending the at least one job to at least two enterprise scheduling agents, each maintained on selected nodes of the computer platforms,*” as recited in independent Claim 25, as amended.

Executing the at Least One Job on the Selected Nodes

As another example, *Barroux* fails to disclose, teach, or suggest “executing the at least one job on the selected nodes under management of the enterprise scheduling agents,” as recited in independent Claim 25, as amended.

The portions of *Barroux* cited by the Examiner discuss an integrated resource 200 for collecting and managing survey information by interacting on a network with nodes 218. (Column 3, Line. 42 - Column 4, Line 30) However, the cited portions do not disclose, and the Examiner has not identified, any job being “executed” on a “selected node under management of the enterprise scheduling agent.” Furthermore, as discussed above, and acknowledged by the Examiner, *Barroux* does not disclose an “enterprise scheduling agent maintained on a selected node of said computer platforms.” (Office Action, Page 7) Accordingly, *Barroux* necessarily fails to disclose “*executing the at least one job on the selected node under management of the enterprise scheduling agent,*” as recited in independent Claim 25.

First Location is Communicatively Coupled to the Selected Nodes by a Network

Claim 25, as amended, recites “determining, *at a first location*, at least one job to be scheduled . . . sending the at least one job to at least two enterprise scheduling agents, each maintained *on selected nodes* . . . and executing the at least one job *on the selected nodes* under management of the enterprise scheduling agents . . . wherein *the first location is*

communicatively coupled to the selected nodes by a network.” The Examiner cites to Column 3, Line 60 - Column 4, Line 14 and Column 6, Line 59 as allegedly disclosing this limitation. However, nothing in the cited portions disclose the functionality recited in Claim 25, “*wherein the first location is communicatively coupled to the selected node by a network.*” In contrast, *Barroux* discloses a method for scheduling tasks on a network using an integrated resource that computes a schedule of tasks (Column 4, lines 20-22), compares the task schedule to a clock (Column 6, lines 27-42), and at the appropriate time launches the scheduled task (Column 6, lines 56-58). In *Barroux*, all of these functions are performed by the integrated resource and the components that perform them are co-located. Accordingly, the *Barroux-Cotichini* combination fails to disclose, teach, or suggest the functionality recited in Claim 25, “*wherein the first location is communicatively coupled to the selected nodes by a network,*” as recited in independent Claim 25, as amended.

Cotichini Fails to Overcome the Inadequacies of Barroux

The Examiner asserts that *Cotichini* “teaches agent maintained on a selected nodes of said computer platforms.” (Office Action, Page 7) However, even if the proposed *Barroux-Cotichini* combination were proper, Applicants respectfully submit that the proposed combination fails to overcome the inadequacies of *Barroux* identified above.

The portions of *Cotichini* cited by the Examiner merely disclose a system including a client with embedded software, a network, and a host. (Column 6, Lines 22-30) However, the embedded software disclosed in *Cotichini* includes “a pre-defined task set.” (Column 2, Line 34) Thus, even if the task set could be construed as a job and the embedded software could be construed as an enterprise scheduling agent, any job associated with the embedded software in *Cotichini* must be “pre-defined” within the embedded software, as opposed to being a job that is sent. Accordingly, *Cotichini* fails to disclose “sending the at least one job to at least one enterprise scheduling agent maintained on a selected node of the computer platforms.” Furthermore, because *Cotichini* fails to disclose “jobs submitted to the” embedded software, *Cotichini* necessarily fails to disclose “executing the at least one job on the selected node under management of the enterprise scheduling agent.” Similarly, *Cotichini* also necessarily fails to disclose “executing the at least one job on the selected node under management of the enterprise scheduling agent.”

In addition, *Cotichini* teaches that the system is used as a security system for the client. (Abstract). The system enables the client device, loaded with an agent, to send communications from the client device over the network to the host. (*Id.*) These communications include identity and location of the client. (*See* Figure 3). Thus, in the system disclosed in *Cotichini*, the host does not know the communication address of the client prior to the client executing the pre-defined task set. Thus, *Cotichini* actually teaches away from the proposed combination and the proposed combination would render the system in *Cotichini* inoperable for its intended function.

Independent Claim 25, is allowable for at least these reasons. Independent Claims 45 and 50 are allowable for at least substantially the same reasons as discussed above with respect to Claim 25. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 25, 45, and 50.

C. Dependent Claims

Dependent claims 2-24, 27-44, and 47-48 are allowable based on their dependence on the independent claims shown above to be allowable, and further because they recite numerous additional patentable distinctions over the references cited by the Examiner. Because Applicants believe they have amply demonstrated the patentability of the independent claims over the references, and to avoid burdening the record, Applicants have not provided detailed remarks concerning these dependent claims. Applicants, however, reserve the opportunity to provide such remarks if it becomes appropriate to do so. Applicants respectfully request reconsideration and allowance of dependent Claims 2-24, 27-44, and 47-48.

Conclusion

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

If there are matters that can be discussed by telephone to further the prosecution of this Application, Applicants invite the Examiner to call the undersigned attorney at (214) 953-6581 at the Examiner's convenience.

Applicants enclose a check for \$120.00 to cover the cost of filing a one-month extension of time. No other fees are believed to be due, however, the Commissioner is hereby authorized to charge any other fees or credit any overpayments to Deposit Account 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Samir A. Bhavsar
Reg. No. 41,617

Date: June 27, 2006

Correspondence Address:

at Customer No. **05073**